

RETURNABLE: SEPTEMBER 28, 2021 : SUPERIOR COURT
EUNICE DEMOND : JUDICIAL DISTRICT OF
NEW HAVEN
V. : AT NEW HAVEN
PLANNING & ZONING COMMISSION OF
THE TOWN OF GUILFORD : AUGUST 27, 2021

**APPEAL FROM PLANNING & ZONING COMMISSION
OF THE TOWN OF GUILFORD**

To the Superior Court for the Judicial District of New Haven at New Haven on September 28, 2021, comes Eunice Demond, owner of 311 Old Whitfield Street, Guilford, Connecticut, appealing from the decision of the Planning & Zoning Commission of the Town of Guilford, 50 Boston Street, Guilford, Connecticut, denying the plaintiff's Special Permit and complains and says:

1. At all times mentioned herein, the plaintiff, Eunice Demond ("Demond") was the record owner of certain real properties known as 311 Old Whitfield Street, Guilford, Connecticut (hereinafter "Demond Property") consisting of adjoining lots shown as Map and Parcel #033023 and #033024.

2. At all times mentioned herein, the defendant, Town of Guilford Planning & Zoning Commission ("Commission") is an agency empowered under the Connecticut General Statutes and under the Town of Guilford's Zoning Ordinance ("Ordinance") to act as the municipal zoning commission in accordance with its zoning regulations and the Connecticut General Statutes.

3. At all times mentioned herein, Demond was operating a wildlife rescue and wildlife sanctuary which also qualified as an animal shelter known as Little Rascals Rescue & Rehabilitation ("Little Rascals") at the Demond Property since approximately 2012.

4. Little Rascals operates a non-profit philanthropic wildlife rescue operation where abused, abandoned, orphaned, and injured wild animals are cared for, rehabilitated and released back into their natural habitat.

5. On or about November 23, 2020, the Commission's Zoning Enforcement Officer, Erin Mannix ("Mannix") received a complaint from a member of the Guilford Planning & Zoning Commission, William Freeman ("Freeman"), who had recently purchased an adjoining lot next to the Demond Property and who had constructed a new home next to the Demond Property in 2019.

6. As a result of Freeman's complaint that the Demond Property was not suitable for an animal shelter or wildlife rehabilitation, the Commission's Zoning Enforcement Officer, Erin Mannix, issued a Cease & Desist Order dated January 7, 2021 stating that Little Rascal's operation violated Guilford's Zoning Code and could not be conducted in an R-3 zone without zoning approval.

7. On February 5, 2021, Demond appealed the foregoing Cease & Desist Order to the Guilford Zoning Board of Appeals ("ZBA") and said appeal is currently pending before said ZBA.

8. On or about February 4, 2021, the Commission's Zoning Enforcement Officer, Erin Mannix, wrote Demond and sent her a special permit application recommending the most "pertinent section ... best able to define your specific use is under Section 273-16A, Table 4, Line 16: Facility of philanthropic, charitable, agricultural, historical, and cultural institutions or societies not conducted as a business or for profit."

9. On or about April 9, 2021, Demond filed an Application for Special Permit under the Guilford Zoning Code, Section 273-16A as recommended by the Commission's Zoning Enforcement Officer, and submitted a Statement of Use, Request for Waiver of Professional Site Plan, a Site Plan and other documents as required.

10. On or about May 20, 2021, the defendant Commission published a legal notice that on June 2, 2021, a public hearing would be held on Demond's Special Permit Application for Little Rascals.

11. A public hearing on Demond's Special Permit Application was held through a WEB and phone meeting due to the COVID-19 pandemic on June 2, 2021 at 7:30 p.m. At the public hearing, Demond's request for a Waiver of the Professional Site Plan was denied.

12. On or about June 24, 2021, the defendant Commission published a legal notice that on July 7, 2021 the continued public hearing would be held on Demond's Special Permit Application.

13. A public hearing on Demond's Special Permit Application was held in person at the regular Guilford Community Center Location on July 7, 2021 at 7:30 p.m. At the public hearing, in addition to other documents, Demond submitted a professional Site Plan drawn by Frank Pannanbourg, Architect, depicting Little Rascal's Small Animal Rehabilitation Facility and other buildings and structures on the Demond Property.

14. The plaintiff, acting through her counsel, appeared at both public hearings, and offered testimony from Demond and various supporters, in addition to submitting documentary evidence to the Commission including the aforementioned Site Plan, a letter of support from Connecticut's DEEP Wildlife Biologist Laurie M. Fortin, Demond's Wildlife Certification Appointment, Inspection Records from Town of Guilford Health Department, photographs, and an amendment to Guilford Regulation §131-5 pertaining to harboring vector species.

15. On August 9, 2021, the Commission voted to deny Demond's Special Permit Application to allow a non-profit philanthropic wildlife rescue stating, *inter alia*, the following reasons:

- a. The use did not conform with the philanthropic provision of §273-16A, Table 4, Line 16 because Demond did not provide “sufficient evidence, such as 501C(3) status, that the proposed philanthropic facility is conducted as a business not for profit;
 - b. The use was not an accessory use;
 - c. The Site Plan from Frank Pannanbourg, Architect, did not comply with §273-97B(2) because it was not based upon an A-2 Survey and was not signed by an architect and lacked certain details;
 - d. The location of the use was not in harmony with the neighborhood;
 - e. The use was not located on a lot of sufficient size to not be detrimental to neighboring lots;
 - f. The architectural design of the structures associated with the use were in conflict with the architectural design of adjacent properties;
 - g. The structures or improvements associated with the use will have significant adverse effect on the historic property.
16. The decision of the Commission was published in the *Guilford Courier* on August 12, 2021.
17. This appeal is brought pursuant to Connecticut General Statutes §8-8(b).
18. Pursuant to Connecticut General Statutes §8-8, the plaintiff Demond is statutorily aggrieved by the decision of the defendant Commission because she is the applicant and owner of the property affected by the decision and she has standing to proceed under Connecticut General Statutes §8-8(a)(i) and §8-8(b).
19. The decision of the defendant Commission in denying the plaintiff Demond’s Special Permit Application was illegal, arbitrary, capricious and an abuse of the discretion vested in it by law as an administrative agency in one or more of the following respects:
- a. Demond adequately satisfied her burden of demonstrating she was a philanthropic organization and operating not for profit and she did not need

to produce evidence of an IRS 501C(3) status under Guilford Zoning Regulations.

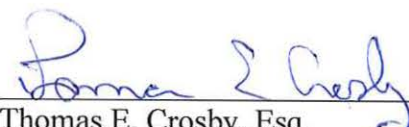
- b. The Commission's decision illegally required Demand to prove a 501C (3) status which is not contained in the Commission's regulations;
- c. The Site Plan rejected by the Commission was signed by a licensed architect, Frank Pannanbourg, and complied with the minimum standards for a professional plan in conjunction with a Special Permit Application;
- d. The Guilford Zoning Code endorsed a philanthropic use within the R-3 zone by including the same on Table 4, Line 16 of §273-16A as eligible for a special permit;
- e. The Commission is municipally estopped from denying that its Zoning Enforcement Officer advised Demand to apply for a Special Permit under Section 273-16A, Table 4, Line 16 when in fact Demand relied upon this statement, made improvements to her use while her application was pending and where she could operate a wildlife sanctuary and/or an animal shelter as a matter of right in an R-3 zone without a Special Permit;
- f. The use is located at a dead-end street adjoining the public railroad station which was a suitable location and the Guilford Zoning Regulations contain no minimum lot size for a philanthropic or charitable use.

WHEREFORE, the plaintiff Eunice Demond appeals from the decision of the Guilford Planning and Zoning Commission denying the plaintiff's Special Permit Application and claims:

1. The Commission denial of Demond's Special Permit Application was arbitrary, capricious, illegal and/or an abuse of the legal discretion vested in it;
2. The appeal be sustained and the decision of the Commission be declared null and void;
3. The Commission be ordered to grant Demond's Special Permit Application;
4. Such other relief at law or in equity as the Court deems appropriate.


THE PLAINTIFF
Eunice Demond

By: _____


Thomas E. Crosby, Esq.
Crosby Law Firm, LLC

TO THE CLERK:

Please enter the Appearance of CROSBY LAW FIRM, LLC as attorney for the plaintiff, Eunice Demond.


Thomas E. Crosby, Esq.
Crosby Law Firm, LLC
Juris No. 101910

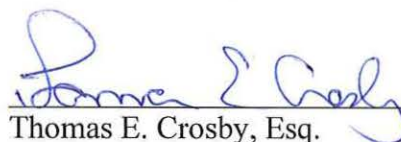
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STATEMENT IN DEMAND

This is an administrative appeal commenced pursuant to Connecticut General Statutes
§8-8, *et seq.*

**THE PLAINTIFF
Eunice Demond**

By:



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